

AG Contract No. KR97 1493TRN  
ECS File: JPA 97-109  
Project: 077PM076/HX056 01C  
0000PMORV SS433 01C  
Section: SR-77 @ Hardy Road  
Traffic Signal

INTERGOVERNMENTAL AGREEMENT  
BETWEEN  
THE STATE OF ARIZONA  
AND  
THE TOWN OF ORO VALLEY

THIS AGREEMENT is entered into 18 December, 1998 pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the TOWN OF ORO VALLEY, acting by and through its MAYOR and TOWN COUNCIL (the "Town").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-401 and 28-334 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The Town is empowered by Arizona Revised Statutes Section 48-572 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the Town.

3. The State and the Town desire to design, construct, operate and maintain a new traffic signal light warranted on SR-77 at the intersection of Hardy Road in the Town, as well as intersection geometric improvements, at an estimated cost of \$628,154.00, hereinafter referred to as the Project, for the safety and benefit of the motoring public.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

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NO. 22859  
Filed with the Secretary of State  
Date Filed: 12/18/98  
Petrey Bayless  
Secretary of State  
By: Nicky J. Braunebold

II. SCOPE OF WORK

1. The State will:

a. Provide to State standards design plans, specifications and such other documents required for construction bidding and construction of the Project. Incorporate Town review comments.

b. Be responsible for fifty percent of the cost of the design and construction of geometric improvements and fifty percent of the cost of the traffic signal construction, up to a maximum of \$100,000.00. Be responsible for any contractor claims for extra compensation attributable to the State.

c. Upon completion and acceptance by the Town, provide maintenance to the traffic signal.

2. The Town will:

a. Review the design documents and provide comments.

b. Be responsible for the remaining balance of the costs associated with the design and construction of the intersection geometric improvements, and for fifty percent of the cost of the traffic signal design and construction.

c. Upon completion and acceptance, provide electrical energy for the traffic signal.

d. Be responsible for any future communication line costs required for signal progression.

3. Congress has authorized appropriations for, but not limited to, the construction of streets and primary, feeder and farm-to-market roads; the replacement of bridges; the elimination of roadside obstacles; and the application of pavement markings.

4. Such project within the boundary of the Town has been selected by the Town; the field survey of the project has been completed; and the plans, estimates and specifications have been prepared and, as required, submitted to the Federal Highway Administration (FHWA) for its approval.

5. The Town, in order to obtain federal funds for the construction of the project, is willing to provide the State with the Town funds to match federal funds in the ratio required or as finally fixed and determined by FHWA.

6. The work embraced in this agreement and the estimated cost are as follows:  
Widening and Reconstruction

Estimated Design Cost	\$62,335.00
Estimated Construction Cost (includes 15% CE)	\$565,819.06
Federal Aid Funds at 94.3%	\$430,192.58
State Funds	\$100,000.00
Town of Oro Valley Funds at 5.7% of \$456,195.74	\$26,003.16
Town Funds	\$71,958.32
Total Town Funds	\$97,961.48

THEREFORE, in consideration of the mutual covenants expressed herein, it is agreed as follows:

SCOPE OF WORK (as to Federal Aid Funds)

1. The State shall submit a program containing the aforementioned project to FHWA with the recommendation that it be approved for construction.
  - a. If such project is approved for construction by FHWA and the funds are available for construction of the project, the State with the aid and consent of FHWA will proceed to advertise for, receive and open bids, and subject to the concurrence of FHWA and the Town, award the contract, enter into a contract with a firm to whom the award is made for the construction of the project, such project to be performed, completed, accepted and paid for in accordance with the requirements of the Standard Specifications for Road and Bridge Construction of the Highways Division, Arizona Department of Transportation. Further, the State will enter into a Project Agreement with FHWA covering the work embraced in said construction contract and will request the maximum federal funds available.
  - b. Should unforeseen conditions or circumstances increase the cost of said work required by a change in the extent or scope of the work called for in this agreement, the State shall not be obligated to incur any expenditure in excess of the amount of the Town's deposit unless and until so authorized in writing by the Town.
2. Prior to the solicitation of bids, the Town shall deposit funds with the State in the amount determined by the State to be necessary to match federal funds in the ratio required. Upon completion of the construction contract, the State shall return to the Town any part of the funds deposited by the Town remaining after Town's pro rata share of the cost, as finally fixed and determined by FHWA, has been paid.
3. The Town shall acquire, without cost to the State, the necessary right-of-way and hereby certifies that all necessary rights-of-way have been acquired.
4. The Town shall remove from the proposed right-of-way all obstructions or unauthorized encroachments of whatever nature, either above or below the surface of the roadway, and hereby certifies that all obstructions and encroachments have been removed therefrom, prior to the start of construction.

5. The Town shall not permit or allow any encroachments, except those authorized by permit, upon, or private use of, the right of way. In the event of any unauthorized encroachment or improper use, the Town shall take all necessary steps to remove or prevent any such encroachment or use; failing in which the State shall have the right to proceed with the removal or prevention thereof, the cost of such removal or prevention to be borne by the Town.

6. Upon completion of construction, the Town shall provide for, at its own cost and as an annual item in its budget, proper maintenance along Hardy Road (but not the Oracle Road intersection), including, but not limited to, signs, and markings necessary for the purpose of regulating, warning and guiding traffic, all in accordance with the requirements of the current edition of the Manual on Uniform Traffic Control Devices for Streets and Highways.

### III. MISCELLANEOUS PROVISIONS

1. Other than the State funds hereinabove outlined (\$100,000.00) the State assumes no financial obligation or liability under this agreement. The Town assumes full responsibility for the design, plans, specifications, reports, the engineering in connection therewith and the construction of the improvements contemplated, cost over-runs and construction claims. It is understood and agreed that the State's participation is confined solely to securing federal aid; that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the Town and that the Town hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, the Town, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, expenses of litigation and attorneys' fees.

2. The cost of the design, construction and construction engineering work covered by this agreement is to be borne by FHWA and the Town, each in the proportion prescribed or as fixed and determined by FHWA as stipulated in this agreement. Therefore, the Town agrees to furnish and provide State with Town funds in an amount equal to the difference between the total cost of the work provided for in this agreement and the amount of federal aid received.

3. This agreement shall remain in force and effect until completion of said Project; provided, however, that this agreement, except any provisions herein for maintenance and electrical energy, which shall be perpetual unless assumed by another governmental agency, may be cancelled at any time prior to the award of a Project construction contract, upon thirty (30) days written notice to the other party.

4. This agreement shall become effective upon filing with the Secretary of State.

5. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

4. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

5. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

6. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation  
Joint Project Administration  
205 South 17 Avenue, Mail Drop 616E  
Phoenix, AZ 85007

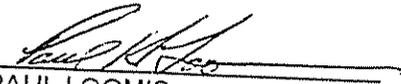
Town of Oro Valley  
Town Manager  
11000 N. LaCanada Drive  
Oro Valley, AZ 85737-7015

7. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

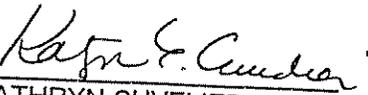
TOWN OF ORO VALLEY

STATE OF ARIZONA  
Department of Transportation

By   
PAUL LOOMIS  
Mayor

By   
WILLIAM J. HIGGINS  
Deputy State Engineer

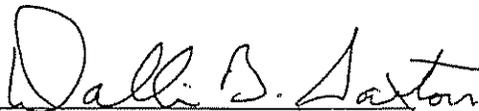
ATTEST

By   
KATHRYN CUVELIER  
Town Clerk

RESOLUTION

BE IT RESOLVED on this 3rd day of July 1997, that I, the undersigned LARRY S. BONINE, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Intermodal Transportation Division, to enter into an agreement with the Town of Oro Valley for the purpose of defining responsibilities for the design, construction and maintenance of intersection improvements and a new warranted traffic signal on SR-77 @ Hardy Road in the Town.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the State Traffic Engineer for approval and execution.

  
for LARRY S. BONINE  
Director

RESOLUTION (R) 98- 90

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF ORO VALLEY, PIMA COUNTY, ARIZONA, AUTHORIZING THE EXECUTION ON AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF ARIZONA FOR THE DESIGN, CONSTRUCTION, OPERATION, AND MAINTENANCE OF A NEW WARRANTED TRAFFIC SIGNAL AT THE HARDY/ORACLE ROAD INTERSECTION.

WHEREAS, ORO VALLEY is a political subdivision of the State of Arizona, is vested with all the rights, privileges and benefits, and entitled to the immunities and exemptions granted municipalities and political subdivisions under the Constitution and laws of the State of Arizona and the United States; and

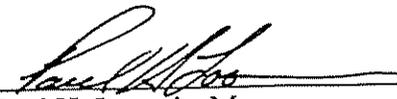
WHEREAS, the installation of the traffic signal is necessary for the public's health, safety and welfare in order to provide for the safe and efficient movement of traffic; and

WHEREAS, the TOWN COUNCIL deems it necessary in the interest of providing for the health, safety and welfare of the citizens of the TOWN OF ORO VALLEY to enter into an intergovernmental agreement with the State of Arizona for the design, construction, operation and maintenance of a new warranted traffic signal at the Hardy/Oracle Road intersection.

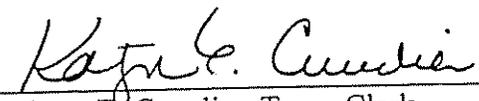
NOW THEREFORE, BE IT RESOLVED, BY THE MAYOR AND THE TOWN COUNCIL OF THE TOWN OF ORO VALLEY, ARIZONA:

1. That the proposed intergovernmental agreement with the State of Arizona be accepted.
2. That the Mayor is authorized to execute the agreement on behalf of the Town of Oro Valley.

PASSED this 18TH day of NOVEMBER, 1998, by the Mayor and Town Council of the Town of Oro Valley, Arizona.

  
Paul H. Loomis, Mayor

ATTEST:

  
Kathryn E. Cuvelier, Town Clerk

11-18-98  
Date

APPROVED AS TO FORM

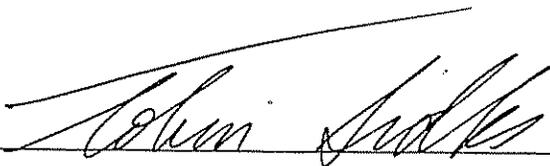
  
Tobin Sidles, Town Attorney

11/25/98  
Date

APPROVAL OF THE ORO VALLEY TOWN ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION and the TOWN OF ORO VALLEY and declare this agreement to be in proper form and within the powers and authority granted to the Town under the laws of the State of Arizona.

DATED this 25 day of November, 1998.



Town Attorney



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX 85007-2997

TRN Main: (602) 542-1680

Direct: (602) 542-8837

Fax: (602) 542-3646

MAIN PHONE : 542-5025

TELECOPIER : 542-4085

GRANT WOODS  
ATTORNEY GENERAL

**INTERGOVERNMENTAL AGREEMENT**  
**DETERMINATION**

A.G. Contract No. KR97-1493TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED December 14, 1998.

GRANT WOODS  
Attorney General

A handwritten signature in black ink, appearing to read "James R. Redpath", written over a horizontal line.

JAMES R. REDPATH  
Assistant Attorney General  
Transportation Section

JRR:et/17298

Enc.